

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 97-3863

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United States of America,

Plaintiff - Appellee,

v.

One Parcel of Property Located at  
1512 Lark Drive, Rapid City,  
Pennington County, South Dakota,

Defendant

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Troy Fairbanks; Pam Fairbanks,

Claimants - Appellants,

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Appeal from the United States  
District Court for the  
District of South Dakota.

**[UNPUBLISHED]**

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Submitted: August 4, 1999  
Filed: August 9, 1999

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Before BEAM, LOKEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

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PER CURIAM.

Troy Fairbanks and his wife, Pam Fairbanks, appeal the district court's<sup>1</sup> grant of summary judgment in favor of the government in this civil forfeiture action. The property was the Fairbanks' residence. The government commenced this proceeding under 21 U.S.C. § 881(a)(7) after Troy Fairbanks pleaded guilty to a drug trafficking conspiracy charge and admitted that at least thirty drug transactions occurred at his home. Pam Fairbanks asserted an innocent owner claim to an interest in the property which the district court rejected because she was not a record owner.

We previously dismissed Pam Fairbanks's appeal for failure to prosecute. Troy Fairbanks argues he should have been deposed before the district court ruled on the government's summary judgment motion. However, Fairbanks submitted two affidavits to the district court and never requested more time in which to develop the summary judgment record. See Fed. R. Civ. P. 56(f). Fairbanks's argument that his attorney labored under a conflict of interest in representing both Troy and Pam Fairbanks was not raised in the district court and is without merit.

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.

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<sup>1</sup> The HONORABLE RICHARD H. BATTEY, United States District Judge for the District of South Dakota.